

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/27/2024

X-CALIBER FUNDING LLC,

Plaintiff

- against -

MARK PETERSEN,

Defendant.

MARK PETERSEN,

Third-Party Plaintiff,

- against -

JOSEPH C. TUERA, WALNUT CREEK
MANAGEMENT, L.L.C., and ILLINOIS DEBT
ACQUISITION COMPANY, L.L.C.,

Third-Party Defendants.

24 Civ. 5529 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

The Court is in receipt of the November 26, 2024, letter informing the Court that Plaintiff/Counter-Claim Defendant X-Caliber Funding LLC ("Plaintiff") has completed the pre-motion letter exchange with Defendant/Counter-Claimant Mark Petersen ("Defendant") regarding Plaintiff's anticipated motion to dismiss Defendant's Counterclaim (Dkt. No. 28) and have failed to resolve the issue without resorting to motion practice. The Court is also in receipt of the November 26, 2024, letter from Defendant arguing that Plaintiff's November

26 letter violated the Court's Individual Practices and accordingly requesting leave to submit a supplemental 3-page letter.

Having reviewed the pre-motion letters, the Court is not persuaded that a pre-motion conference is necessary at this time. Moreover, the Court does not interpret Plaintiff's November 26 letter as a prohibited attempt to submit "additional arguments." Instead, Plaintiff is directly responding to Defendant's arguments in his November 21 letter and providing an explanation as to why a motion to dismiss remains warranted.

The Court directs the parties to advise whether they consent for the Court to deem the pre-motion letters to constitute a fully briefed motion to dismiss and rule on the basis of those letters, or whether the parties request supplemental or full briefing.

If the parties request supplemental or full briefing, they shall submit a proposed briefing schedule within one (1) week of the date of this Order.

SO ORDERED.

Dated: 27 November 2024
New York, New York

A handwritten signature in blue ink, appearing to read 'Victor Marrero', is written over a horizontal line.

Victor Marrero
U.S.D.J.